

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

<u>JIN-MING LIN et al</u>)	
Plaintiffs)	
v.)	
)	Civil Action No. 2009-cv-11510
CHINATOWN RESTAURANT CORP.,)	
JOYCE P.Y. HAYES)	
<u>Defendants</u>)	

**DEFENDANTS CHINATOWN RESTAURANT CORPORATION'S MOTION IN
LIMINE TO PRECLUDE PLAINTIFFS GIANG, FUNG, CHEAH, SOOHOO AND ZHI
FROM TESTIFYING ABOUT THEIR CONVERSATIONS, PRIOR TO BEING HIRED,
WITH ANY MANAGER OR MANAGEMENT OF CHINATOWN RESTAURANT
ABOUT THE WAGES THEY WERE TOLD THEY WOULD BE PAID OR OTHER
MATTERS NOT REFERRED TO IN THEIR SUPPLEMENTARY ANSWERS TO
INTERROGATORIES REQUESTED JURY INSTRUCTIONS**

Plaintiffs Giang, Fung, Cheah and Soohoo in March of 2012, opted in as Plaintiffs. Defendant corporation propounded interrogatories to them almost immediately thereafter, on march 13th 2012. In due course, Plaintiffs answered them. Their initial answers are attached to document #72, Motion to Compel by Chinatown Restaurant Corporation.

Identical interrogatories #3 and #4, propounded to each of them, stated:

3. Q. Prior to being employed by Chinatown Restaurant Corp., did you discuss your prospective employment with any person?
4. Q. Unless your answer to interrogatory #3 is an unqualified negative, please identify each person with whom you had a discussion or discussions, its or their date(s), and what was said on each such date by each participant in the discussion.

Noting that no Plaintiff had answered interrogatory #4 concerning what was said in his or her hiring conversations, the corporation moved to compel answers (document #72). Eventually Plaintiff Zhi answered interrogatories, also omitting the same information in response to #4, and the corporation moved to compel an answer from (document #76, to which his answers are attached). On June 19th 23012, this court ordered each Plaintiff to answer (*inter alia*) interrogatory #4 “fully” (document #81, page 2). On August 1st 2012, all Plaintiffs except Zhi served supplementary answers. Copies are annexed hereto. According to the records of the corporation’s attorney, Zhi, whose supplementary answers were often promised, never complied with the court’s order.

Except in the most general terms, no opt-in Plaintiff ever answered interrogatory #4 as to what was said when he or she was hired. Nevertheless, Chao (Amended Complaint, ¶38), Giang (Amended Complaint, ¶56), SooHoo (Amended Complaint, ¶69, and Zhi (Amended Complaint, ¶79), all plead in their amended complaint promises concerning salary allegedly made to them before they started their employment. The amended complaint was not served until September 25th 2012.

Fed.R.Civ.P. 37(b)(2)(A)(ii) states in relevant part:

If a party or a party's officer, or managing agent or a witness designated under Rule 30(b)(6) or 31(a)(4) fails to obey an order to provide or permit discovery, including an order under Rule 26(f), 35, or 37a, the court where the action is pending may issue further just orders. They may include. . . . prohibiting the disobedient party from supporting or opposing designated claims or defenses, or introducing designated matters in evidence.

Having flagrantly disobeyed this court's order to answer interrogatory #4 fully, Giang, Fung, Cheah, SooHoo and Zhi should now be prohibited from testifying to the terms of their employment discussed before they were hired.

Respectfully submitted,

/s/Lawrence M. Siskind

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Attorney for Joyce E. P. Hayes

/s/David Berman

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Attorney for Chinatown Restaurant Corp.

CERTIFICATE OF SERVICE

I, David Berman, counsel of Defendant Chinatown Restaurant Corporation on this **21st day of October 2012**, caused to be served via electronic transmission the following: **Defendants Chinatown Restaurant Corporation's Motion In Limine To Preclude Plaintiffs Giang, Fung, Cheah, Soohoo and Zhi From Testifying About Their Conversations, Prior to Being Hired, With Any Manager or Management of Chinatown Restaurant About the Wages They Were Told They Would Be Paid or Other Matters Not Referred To In Their Supplementary Answers To Interrogatories Requested Jury Instructions** upon:

MYONG J. JOUN

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JEFFREY WIESNER

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By its attorneys,

/s/Lawrence M. Siskind

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Attorney for Joyce E. P. Hayes

Attorney for Chinatown Restaurant Corp.

cc:clad

October 21st 2012

JIN-MING LIN and CHI-WAI CHAO,
on behalf of themselves and on
behalf of others similarly situated,
Plaintiffs,
v.
CHINATOWN RESTAURANT CORP.,
JOYCE P.Y. HAYES, and
WILLIAM M. WAINWRIGHT,
Defendants.

CHINATOWN RESTAURANT CORP.,
JOYCE P.Y. HAYES, and
WILLIAM M. WAINWRIGHT,
Defendants.

2. Q. Please state and identify every person (including any Defendant) by whom you have been employed since January 1st 2000, and for each person state the dates between which you were employed, your title(s), the duties you performed, your weekly pay, whether you were paid for overtime work, and the reason for your separation from employment.

From 1999 to 2008, I was a meat preparer. I lugged hundreds of pounds of rice and meat weekly. I prepared the rice by washing it and drying it. I prepared the meat by cutting the pieces into small squares, grinding the meat, and marinating the meat. I was also told to do various side work such as cleaning, mopping the floor, wiping down the counters, taking out the trash, and washing dishes. I did whatever I was told to do. I was paid \$1,600 per month. I was not paid for overtime work.

In May 2008, Joyce Hayes took over the restaurant. I continued to do meat prep until about October 2009. Defendants have all records relating to pay. I was not paid for overtime work.

From November 2009 to February 2010, I worked for a person named Kit at the other Chinatown Restaurant in Stoughton. I did meat prep and side works. I was paid \$1,700 per month. I was then let go by Kit who said business was slow.

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In September 2011, I started working at Feng Shui Restaurant doing side works. I am paid \$1,600 per month. I am not paid for overtime work.

3. Q. Prior to being employed by Chinatown Restaurant Corp., did you discuss your prospective employment with any person?

A. Yes.

4. Q. Unless your answer to interrogatory #3 is an unqualified negative, please identify each person with whom you had a discussion or discussions, its or their dates(s), and what was said on each such date by each participant in the discussion.

A. I spoke with Joyce Hayes. I do not remember the exact date but, to the best of my memory, it was in March 2008 when Ms. Hayes approached me and said she will be taking over the restaurant. She asked me to stay and help her when she would become the owner. I agreed to stay and help her.

5. Q. Are you still an employee of Chinatown Restaurant Corporation?

A. No.

6. Q. Unless your answer to Interrogatory #5 is an unqualified affirmative, please state the last date on which you were employed by Chinatown Restaurant Corporation, the reason or reasons for the end of your employment including whether it was voluntary or involuntary, and identify any incident or incidents that led to the end of your employment.

A. I believe I last worked in October 2009. I had taken a vacation to Hong Kong. When I returned to work, Ms. Hayes cut my work days from six days to four days a week. Ms. Hayes said the cut was due to slowdown in business. I left to work at the other Chinatown Restaurant in Stoughton.

Signed and subscribed under the pains and penalties of perjury, this 8 th day of 8, 2012,

Yuen Yue Soohoo
YUEN YUE SOOHOO

As to objections,

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Dated: August 1, 2012

CERTIFICATE OF SERVICE

I certify that on this day I caused a true copy of the above document to be served upon the attorney of record for all parties via First Class Postage Prepaid Mail / Hand-Delivery / Fax / Email / CM-ECF.

Date: 8/1/2012 /s/ Myong J. Joun
Myong J. Joun

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

JIN-MING LIN and CHI-WAI CHAO,
on behalf of themselves and on
behalf of others similarly situated,
Plaintiffs,

v.

CHINATOWN RESTAURANT CORP.,
JOYCE P.Y. HAYES, and
WILLIAM M. WAINWRIGHT,
Defendants.

Civil Action No. 09-11510-GAO

**PLAINTIFF MUOI GIANG'S FIRST SUPPLEMENTAL
ANSWERS TO INTERROGATORIES PROPOUNDED BY
DEFENDANT CHINATOWN RESTAURANT CORPORATION**

2. Q. Please state and identify every person (including any Defendant) by whom you have been employed since January 1st 2000, and for each person state the dates between which you were employed, your title(s), the duties you performed, your weekly pay, whether you were paid for overtime work, and the reason for your separation from employment.

- A. For approximately one year, from January 2000 to February 2001, I worked at Dedham Chinese Restaurant. The owner's name Lisa. I was in charge of appetizers. I was paid \$1700 per month. I was not paid for overtime work. I left job voluntarily because of too little money.

From about March 2001 to May or June 2010, I worked at the Chinatown Restaurant in Stoughton, MA. I worked for William Wong. I was in charge of appetizers. I was paid \$1850 per month. I was not paid for overtime work. I left voluntarily to work for Ms. Joyce Hayes in Brockton.

From approximately June or July 2010 to February 2012, I worked at the Chinatown Restaurant in Brockton as an appetizer fry cook for Ms. Hayes. Defendants have all records regarding pay. I was not paid for overtime work. I was fired by Ms. Hayes after she asked me for the letter/notice of the lawsuit in this case and I refused.

3. Q. Prior to being employed by Chinatown Restaurant Corp., did you discuss your prospective employment with any person?

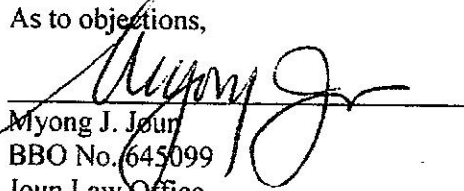
- A. Yes.

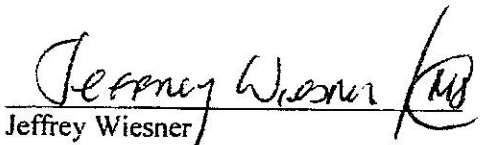
4. Q. Unless your answer to interrogatory #3 is an unqualified negative, please identify each person with whom you had a discussion or discussions, its or their dates(s), and what was said on each such date by each participant in the discussion.
- A. I believe it was in May or early June of 2010 when Billy Kwok called me several times to say that Ms. Hayes had asked him to put in the call to me to persuade me to go work for her. He told me that Ms. Hayes promised that my salary would be higher than what I was being paid at the Stoughton restaurant and that the food the employees eat would be better. I then spoke to Ms. Hayes. She confirmed what Billy Kwok had told me. I agreed to go work for her.
5. Q. Are you still an employee of Chinatown Restaurant Corporation?
- A. No.
6. Q. Unless your answer to Interrogatory #5 is an unqualified affirmative, please state the last date on which you were employed by Chinatown Restaurant Corporation, the reason or reasons for the end of your employment including whether it was voluntary or involuntary, and identify any incident or incidents that led to the end of your employment.
- A. I stopped working at the restaurant in mid-February 2012, I believe the date was the 13th. I stopped working because the conditions at work were increasingly unbearable. I learned of this lawsuit when I received a notice of the lawsuit in the mail. Two days later, Ms. Hayes asked me whether I had received anything in the mail regarding a lawsuit against her and the restaurant. When I told her that I did, she told me to hand it over to her. When I did not give it to her, Ms. Hayes started picking on me every day, yelling at me and harassing me for no apparent reason. As the pressure and stress mounted, it got to a point where I had to take a couple of days off. Before I could return to work, Billy Kwok told me that they had hired someone else to replace me and that I was no longer needed to come back to work at Chinatown.

8 - Signed and subscribed under the pains and penalties of perjury, this 7th day of _____, 2012,


MUOI GIANG

As to objections,


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Dated: August 1, 2012

CERTIFICATE OF SERVICE

I certify that on this day I caused a true copy of the above document to be served upon the attorney of record for all parties via First Class Postage Prepaid Mail / Hand-Delivery / Fax / Email / CM-ECF.

Date: 8/1/2012 /s/ Myong J. Joun
Myong J. Joun

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**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

JIN-MING LIN and CHI-WAI CHAO,
on behalf of themselves and on
behalf of others similarly situated,
Plaintiffs,

v.

Civil Action No. 09-11510-GAO

CHINATOWN RESTAURANT CORP.,
JOYCE P.Y. HAYES, and
WILLIAM M. WAINWRIGHT,
Defendants.

**PLAINTIFF YOOK THAI CHEAH'S FIRST SUPPLEMENTAL
ANSWERS TO INTERROGATORIES PROPOUNDED BY
DEFENDANT CHINATOWN RESTAURANT CORPORATION**

2. Q. Please state and identify every person (including any Defendant) by whom you have been employed since January 1st 2000, and for each person state the dates between which you were employed, your title(s), the duties you performed, your weekly pay, whether you were paid for overtime work, and the reason for your separation from employment.
- A. I was still living in Malaysia on January 1, 2000. In approximately August of 2000, I arrived in the United States and started working for a restaurant called Great Chow in Wallaston. I worked as a take-out person. I was paid \$2,000 per month. I was not paid for overtime work. I worked there until about December 2007.

In January 2008, I went back to Malaysia. I returned to the United States in April or May.

After my return, for just about a month, I worked at Terminal B at the Food Court in Logan Airport as a cashier. I do not remember how much I was paid. I quit because the employer refused to pay me for overtime work.

In June 2008, I started working for Joyce Hayes at Chinatown Restaurant in Brockton. I was in charge of take-out orders. In April 2009, Ms. Hayes asked me to work at the front desk. I had to package the take-out orders, bartend, clean and prep the bar area, act as a hostess, tend to the cash register, and take orders over the phone. Occasionally, I also opened and closed the restaurant, tallied the supplies that came in, signed for alcohol deliveries and at times also delivered food to customers. Defendants have all records regarding my pay. I was not paid for overtime work.

In January 2010, I had an argument with Ms. Hayes about her properly reporting my taxes. I was fired. From February 2010 to May 2012, I collected unemployment.

Since June 2012, I started work at Spicy Pepper Garden in Acton, MA. I work part time at the front desk earning \$90 per day. I do not work overtime.

3. Q. Prior to being employed by Chinatown Restaurant Corp., did you discuss your prospective employment with any person?

A. Yes.

4. Q. Unless your answer to interrogatory #3 is an unqualified negative, please identify each person with whom you had a discussion or discussions, its or their dates(s), and what was said on each such date by each participant in the discussion.

A. I believe it was in August 2008 when a Chinatown Restaurant employee named Tsai Yuk Wai (spelled phonetically) telephoned me about a job opening at Chinatown Restaurant. Ms. Tsai told me that the owner, Joyce Hayes, wanted Ms. Tsai to continue working at the restaurant but she had made other commitments. Ms. Tsai asked me if I was interested in working at the restaurant and told me that the pay would be low. I told her that I was interested. Sometime later, Ms. Tsai called me to ask when I could start working. I believe I started working in November 2008. I spoke with Joyce Hayes. Ms. Hayes told me I could work there.

5. Q. Are you still an employee of Chinatown Restaurant Corporation?

A. No.

6. Q. Unless your answer to Interrogatory #5 is an unqualified affirmative, please state the last date on which you were employed by Chinatown Restaurant Corporation, the reason or reasons for the end of your employment including whether it was voluntary or involuntary, and identify any incident or incidents that led to the end of your employment.

A. I stopped working on January 15, 2011. It was involuntary. I told Joyce Hayes that she needed to report the full hours that I worked. She fired me.

Signed and subscribed under the pains and penalties of perjury, this 7 th day of 8, 2012,

Yook Thai Cheah
YOOK THAI CHEAH

As to objections,

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Date: 8/1/2012 /s/ Myong J. Joun
Myong J. Joun

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

JIN-MING LIN and CHI-WAI CHAO,
on behalf of themselves and on
behalf of others similarly situated,
Plaintiffs,

v.

CHINATOWN RESTAURANT CORP.,
JOYCE P.Y. HAYES, and
WILLIAM M. WAINWRIGHT,
Defendants.

Civil Action No. 09-11510-GAO

**PLAINTIFF MING F. FUNG'S FIRST SUPPLEMENTAL
ANSWERS TO INTERROGATORIES PROPOUNDED BY
DEFENDANT CHINATOWN RESTAURANT CORPORATION**

2. Q. Please state and identify every person (including any Defendant) by whom you have been employed since January 1st 2000, and for each person state the dates between which you were employed, your title(s), the duties you performed, your weekly pay, whether you were paid for overtime work, and the reason for your separation from employment.

- A. I started working at the Hong Kong Kitchen which is now known as the Chinatown Restaurant in Brockton in about September 2001. I was in charge of making appetizers which included marinating, prepping, assembling and deep frying appetizers. I was also responsible for washing and maintaining the deep fryer. I was hired by William Wong. I was paid \$1,600 per month. I was not paid for overtime work.

When Joyce Hayes took over as owner of Chinatown Restaurant, I continued to work there until about July/August 2008. Defendants have all records relating to pay. I was not paid for overtime work.


3. Q. Prior to being employed by Chinatown Restaurant Corp., did you discuss your prospective employment with any person?

- A. Yes.

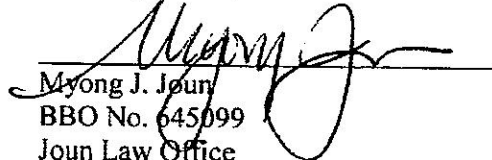
4. Q. Unless your answer to interrogatory #3 is an unqualified negative, please identify each person with whom you had a discussion or discussions, its or their dates(s), and what was said on each such date by each participant in the discussion.

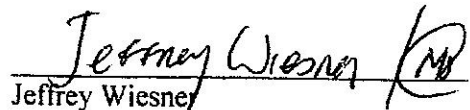
- A. I believe it was in late April or early May 2008 when I met Joyce Hayes. She recruited me to work for her. I agreed.
5. Q. Are you still an employee of Chinatown Restaurant Corporation?
- A. No.
6. Q. Unless your answer to Interrogatory #5 is an unqualified affirmative, please state the last date on which you were employed by Chinatown Restaurant Corporation, the reason or reasons for the end of your employment including whether it was voluntary or involuntary, and identify any incident or incidents that led to the end of your employment.
- A. To the best of my memory, I stopped working at Chinatown Restaurant just two days short of three months after Joyce Hayes hired me. It was involuntary. I had returned from a vacation and when I reported to work, Ms. Hayes told me that I was no longer needed. I believe this was in mid-August 2008.

8 Signed and subscribed under the pains and penalties of perjury, this 7th day of _____, 2012,


MING F. FUNG

As to objections,


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Dated: August 1, 2012

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Date: 8/1/2012 /s/ Myong J. Joun
Myong J. Joun